



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

JUN 14 2017

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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The City of New York Department of Environmental Protection Attn: Anastasios Georgelis, P.E. Acting Deputy Commissioner Bureau of Water and Sewer Operations 59-17 Junction Blvd Flushing, NY 11373	The City of New York Law Department Attn: Carrie Noteboom, Esq. 100 Church Street New York, NY 10007 email: cnoteboo@law.nyc.gov
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Re: EPA Administrative Compliance Order CWA-02-2016-3012
City of New York and the New York City Department of Environmental Protection

Dear Ms. Noteboom and Mr. Georgelis:

The United States Environmental Protection Agency (“EPA”), Region 2, issued Administrative Order (“AO”) CWA-02-2016-3012 to the City of New York (“City”) and the New York City Department of Environmental Protection (“DEP”) on August 31, 2016. Paragraph 62(a) of the AO required that the City submit an approvable Operation and Maintenance Plan for its Collection System to EPA within 120 calendar days of the City’s receipt of the AO. The AO was received on September 2, 2016. Under a letter from EPA to the City and DEP, dated January 23, 2017, EPA granted the City and DEP a time extension until May 31, 2017 to submit the Plan to EPA. Under a cover letter, dated May 31, 2017, the City submitted DEP’s Sewer Backup Prevention and Response Plan (“Plan”) to EPA for review and approval.

Overall, the Plan is consistent with technical discussions between DEP and EPA, and provides details on a pilot program which will be implemented beginning on July 1, 2017. We are generally pleased with the DEP’s proposal and want to ensure that the DEP begin implementation of the Pilot by July 1, 2017. To that end, EPA approves the Plan and offers the following comments on the Plan:

1. Semi-Annual Meetings: The cover letter to the Plan commits DEP to meet with EPA semi-annually to provide updates on the results of the targeted pilot program. To facilitate the efficacy of such meetings, the DEP should provide EPA with appropriate data before each meeting so that EPA can best be prepared to discuss progress. This data should include Community District specific metrics required in paragraph 63(j), (l) and (m) of the AO for Community Districts 313, 315, 412 and 413. The first semi-annual meeting should take place by December 2017.

2. Sewer Backup Benchmark: The Plan’s cover letter states that the pilot program may result in the identification of additional performance metrics related to sewer backups. EPA agrees that based on the collection and analysis of data during the pilot program, additional performance

metrics, other than those currently utilized in the 2016 State of the Sewers Report, may be established. In accordance with paragraph 62(e) of the AO, EPA expects that the DEP will develop a “Sewer Backup Benchmark,” which will establish a benchmark for the annual level of reductions of Sewer Backups. This should be done by October 31, 2020, in accordance with the schedule outlined in the Plan.

3. Implementation Schedule: The DEP’s Plan did not address Paragraph 62(e)5 of the AO, by including an implementation schedule for at least seven years that will demonstrate the continuous achievement of the annual Sewer Backup Benchmark. It is not clear to EPA if the DEP is considering the pilot program to be part of a seven-year schedule, or if the seven-year period can only begin after completion of the pilot program and after the pilot program data is completed and analyzed. The DEP should inform EPA of how it intends to meet this AO provision.

4. Fats, Oils and Grease (“FOG”) Program: EPA recommends that the DEP, as part of its pilot program data collection, seek to identify FOG issues as resulting from private residences versus apartment buildings (New York City Housing Authority or other). For cases in which the latter is identified the DEP may be able to address an apartment building as it addresses a commercial establishment: by requiring a grease interceptor. Such an approach could even be installed by the DEP in its system. The effectiveness of such a system versus public education alone would be interesting to compare. Such data and potential solutions could be further discussed during semi-annual meetings.

5. Terminology: The Terminology section of the Plan (Section 2) does not provide a definition of a recurring backup. Paragraph 63(f) of the AO defines a recurring backup as a sewer segment that has a backup more than once in a two- year period. Please add this definition to the Terminology section.

6. Recurring Backups: In accordance with paragraph 3.2.2 of the Plan, a backup that recurs twice in a rolling three-month period will be referred to the Sewer Backup (“SBU”) Operations and Analysis Program (“SOAP”). EPA requests that DEP use a threshold that would refer backups to the SOAP for those that occur more than once in a segment in a rolling one-year period. Given that the DEP has over the years reduced the number of SBUs significantly, its SOAP should be able to more effectively deal with the remaining SBUs that recur more than once in a segment in a rolling one-year period.

7. TISP Report: As described in Section 4 of the Plan, Targeted Sewer Inspection Pilot (“TSIP”), after completion of the pilot phase, DEP will use the data collected and lessons learned to determine future implementation and potential expansion of TSIP. The DEP shall provide a report on the TSIP including lessons learned, future implementation, expansion of the TSIP and recommendations by November 30, 2020, and include the information required by paragraph 62(f) of the Order.

8. Program Expansion: Section 4.2 Pilot Phase should list the 4 Community Districts (Boards 313, 315, 412 and 413) as those that are included in the pilot program. Additionally, it's important to note that these are not the only problematic areas based on GIS Mapping conducted by EPA. There are other neighborhoods and community districts that have elevated levels of SBUs and we anticipate progress to be made in these areas in the future. Relative to paragraph 4.3 of the Plan, TSIP Implementation and Expansion, as well as paragraph 1 above in this letter, the DEP must provide details of the TSIP Implementation and Expansion by November 30, 2020.

9. Connection Between TSIP and SBU Response System: Although the Plan says the TSIP will supplement DEP's current SBU response system (see Sec. 4 and Appx. 3), it is not clear that the inspections performed under the three-year pilot will trigger work orders and preventative maintenance/corrective actions. DEP should explicitly explain that findings from the TSIP will trigger such orders and/or actions. Also, that the Plan will be revised to reflect lessons learned from the pilot.

10. Unconfirmed SBUs: It is not clear if the DEP will map and analyze Unconfirmed SBUs, as required by the order. The Plan says "DEP uses a computerized maintenance management system and a geographic information system (GIS) to manage and track Customer Service Requests." DEP should include in Section 3.1 that GIS analysis is conducted for both Confirmed and Unconfirmed SBUs.

11. SBU Response Checklist: DEP should include in the SBU Response Checklist the same condition rating for manholes (i.e., good, fair, needs repair, inaccessible, buried) found in the checklist DEP uses for its manhole inspections to provide consistency with their rating system. Also, DEP may reference its manholes checklist in the Plan in case the SBU response inspection triggers an in-depth manhole inspection. Additionally, the SBU Response Checklist should include a list of all acronyms spelled out as any of the acronyms in the checklist are spelled out in the Plan.

Based upon paragraph 62(b) of the AO, please submit a revised Plan within 30 days of receipt of these comments.

We remain available to discuss the aforementioned matters or any other matters that you may deem necessary to discuss. We look forward to your response and our continued conversations.

Sincerely,



Douglas McKenna, Chief
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cc: Joseph Theis, OECA

